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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,916	08/07/2003	Andrew Brookfield Swaine	550-459	8853
23117	7590	12/01/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			VO, HIEN XUAN	
			ART UNIT	PAPER NUMBER
			2863	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/635,916	SWAINE ET AL.
	Examiner Hien X. Vo	Art Unit 2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-30 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-30 rejected under 35 U.S.C. 102(e) as being anticipated by Sahin et al. (U.S Patent No. 6,769,054).

With respect to claim 1, Sahin et al. disclose a system and method for preparation of workload data for replaying in a data storage environment including at least two trace data sources, each of said at least two trace data sources being operable to generate a respective trace data stream (see e.g. Fig. 13, col. 5, lines 25-43); a reference timestamp generator operable to generate reference timestamp data (see e.g. Fig.9); a trace data annotator operable to output said trace data streams together with said reference timestamp data associated with points within said respective trace data streams to provide temporal correlation between said at least two trace data sources (see e.g. col. 20, lines 5-31).

With respect to claims 2-7, Sahin et al. disclose the invention as claimed including wherein one of said trace data sources also serves as said reference timestamp generator (see e.g. 24-26), the trace data armostator is operable to output said trace data streams and a distinct data stream comprising said reference timestamp data (see e.g. Fig. 1), the trace data annotator is operable to insert said reference timestamp data into at least one of said trace data streams to generate a respective individual annotated trace data stream (see e.g. Fig. 18), the trace data streams from said at least two trace data sources are locally cycle-accurate trace data streams, at least two local clock sources associated with respective ones of said at least two trace data sources, each of the at least two local clock sources being operable to generate local timestamp data associated with said points in said trace data streams (see e.g. col. 20, lines 28-30), the trace data annotator is operable to output said local timestamp data together with said reference timestamp data and said trace data streams (see e.g. col. 20, lines 20-24).

With respect to claims 8-11, Sahin et al. disclose the invention as claimed including at least one of said at least two trace data sources comprises a marker packet generator operable to output a marker packet at a marker point in the corresponding trace data stream and to issue a request to said reference timestamp generator to output reference timestamp data associated with said marker point (see e.g. col. 5, lines 25-43), the marker packet generator is operable to include in said marker packet a trace source identifying signal that identifies the associated trace data source, the marker packet generator is operable to include in said marker packet local timestamp data from

the respective trace data source and corresponding to said marker point, a combiner operable to combine said trace data streams and said reference timestamp data for output to a trace data stream processor (see e.g. col. 21, lines 23-44).

With respect to claims 12-14, Sahin et al. disclose the invention as claimed including at least one of said at least two trace data sources comprises a software-triggered trace data generator such that a software-controlled write to one or more predetermined memory locations triggers generation of a trace data stream by said software-triggered trace data generator (see e.g. col. , at least one of said at least two trace data sources includes: a processor core; a digital signal processor; a memory bus monitor, and an integrated circuit (see e.g. col. 7, lines 12-45).

Claims 15-27 are method claims corresponding to apparatus claims 1-14. Therefore, claims 15-27 are rejected for the same rationales set forth for claims 1-14.

With respect to claims 28-30, Sahin et al. disclose the invention as claimed including a computer program product carrying a computer program for controlling a data processing apparatus to analyse at least two annotated trace data streams comprising trace data together with reference timestamp data associated with points within said at least two data streams, said computer program product comprising: trace data processing code operable to perform temporal correlation between said points in said at least two trace data streams using said reference timestamp data (see e.g. col. 8, lines 9-43).

3. Applicant's arguments filed on 08/16/05 have been fully considered but they are not persuasive. Applicant's arguments , the prior art fails to teach "at least two trace

data sources" or Applicants' "trace data almotator". However, the prior art discloses the trace capture process can determine when new trace data (see e.g. col. 5, lines 25-43) and also the trace capture process operation (Fig. 3B). Therefore, the prior art still reads on the limitation of the claims invention.

**4. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hien X. Vo whose telephone number is (571) 272-2282. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hien Vo  
11/28/05

John Baile  
Supervisory Patent Examiner  
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